

REMARKS

Administrative Overview

In the Office Action mailed on April 2, 2008, claims 1 and 29 were objected to due to informalities; claims 3, 4, 6, 10–13, 18, and 19 were objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim; claims 1–9 and 12–26 were provisionally rejected for nonstatutory obviousness-type double patenting over claims 1–9 and 12–26 of co-pending U.S. Patent Application No. 10/709,141; claims 1, 2, and 5–29 were rejected under 35 U.S.C. § 102(c) as being anticipated by U.S. Patent Application Publication No. 2005/0080850 to Salesky et al. (hereinafter “Salesky”); and claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Salesky in view of U.S. Patent No. 7,222,305 to Teplov et al. (“Teplov”).

The Applicants hereby amend claims 1–8, 10, 12–17, 19, 24, 26, and 29. Support for the claim amendments may be found throughout the specification, the drawings, and the claims as originally filed. No new matter is introduced by the amendments. After entry of the claim amendments, claims 1–29 will be pending in this application. Accordingly, the Applicants respectfully request reconsideration of claims 1–29 in light of the amendments made above and the arguments presented below, and the withdrawal of all objections and rejections.

The Examiner’s objections and rejections are addressed in the order in which they appear in the Office Action.

Interview Summary

The undersigned thanks the Examiner for her time and courtesy during the interview that took place on August 26, 2008. The undersigned notes that the discussion focused on the arguments presented herein. Accordingly, this paper is intended to constitute a proper

recordation of the interview in accordance with MPEP § 713.04, and also to provide a full response to the Office Action mailed on April 2, 2008.

The Informalities in Claims 1 and 29 are Corrected

The Examiner objected to claims 1 and 29 due to informalities recited therein. The Applicants respectfully submit that the foregoing amendments to claims 1 and 29 overcome the Examiner's objections thereto. Accordingly, the Applicants respectfully request reconsideration of claims 1 and 29, and the withdrawal of the Examiner's objections thereto.

Claims 3, 4, 6, 10–13, 18, and 19 are in Proper Dependent Form

Claims 3, 4, 6, 10–13, 18, and 19 are objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

As requested by the Examiner, Applicants have amended claim 12 to recite “metadata information.” The Applicants respectfully submit that that amendment to claim 12 overcomes the Examiner's objections to claims 12 and 13.

The Applicants also respectfully submit that claims 3, 4, 6, 10, 11, 18, and 19 are in proper dependent form. The Examiner objects to claims 3, 4, 6, 10, and 11 as referring to steps that are not specifically recited in the immediately preceding claim from which those claims **directly** depend. However, each of claims 3, 4, 6, 10, and 11 **indirectly** depend from claim 1, which properly recites each of the steps referred to in claims 3, 4, 6, 10, and 11. Similarly, the Examiner objects to claims 10, 18, and 19 as referring to elements that are not specifically recited in the immediately preceding claim from which those claims **directly** depend. However, claim 10 **indirectly** depends from claim 1 and claim 1 recites “received data packets,” and claims 18 and 19 each **indirectly** depend from claim 14 and claim 14 recites both “a source

node” and “a communications service.” As such, the Applicants respectfully submit that claims 3, 4, 6, 10, 11, 18, and 19 are in proper dependent form.

Accordingly, the Applicants respectfully request reconsideration of claims 3, 4, 6, 10–13, 18, and 19, and the withdrawal of the Examiner’s objections thereto.

Double Patenting Rejection of Claims 1–9 and 12–26

Claims 1–9 and 12–26 stand provisionally rejected for nonstatutory obviousness-type double patenting over claims 1–9 and 12–26 of co-pending U.S. Patent Application No. 10/709,141. Applicants respectfully request that this rejection be held in abeyance until the claims of the instant application are considered to be in condition for allowance, but for this double patenting rejection. At that time, Applicants will file a terminal disclaimer if the double patenting rejection is considered to be appropriate.

Claims 1, 2, and 5–29 are Patentable over Salesky

Claims 1, 2, and 5–29 are rejected under 35 U.S.C. § 102(e) as being anticipated by Salesky. The Applicants respectfully traverse this rejection as applied to the claims, as amended.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. The Applicants respectfully submit that Salesky fails to meet this exacting standard as applied to Applicants’ amended independent claims 1, 14, 26, and 29.

In various embodiments, Applicants’ invention relates to systems, methods, and devices for synchronizing a consumer node representation of a dynamic data set with a source node representation of the dynamic data set. Specification at para. [0001]. For example, with reference to FIG. 3 of Applicants’ specification, a source node 100 may generate and transmit to a communications service 300 both data packets (e.g., data packets 0, 1, 2, 3, 4, and 5), which

represent a current state of the dynamic data set, and **separate** metadata packets (e.g., metadata packets 310, 320, and 330) that identify those data packets. Specification at para. [0040]. The communications service 300 may then transmit some or all of the data packets and the separate metadata packets to consumer nodes 150, 150''. Specification at para. [0042]. For example, a consumer node 150 with a fast network connection may receive all of the data packets and the separate metadata packets, while a consumer node 150'' with a slow network connection may receive only a subset thereof. Specification at para. [0042].

Advantageously, because the metadata packets are **separate from** the data packets, the communications service 300 may elect to send, following the transmission of a particular metadata packet, different data packets identified by that particular metadata packet to different consumer nodes 150, 150''. For example, with reference to FIG. 3 of Applicants' specification, following the transmission of metadata packet 330 to consumer node 150, communications service 300 elects to send only data packet 5 to consumer node 150. In contrast, following the transmission of metadata packet 330 to consumer node 150'', communications service 300 elects to send both data packet 4 and data packet 5 to consumer node 150''.

Each one of the Applicants' amended independent claims 1, 14, 26, and 29 includes at least one limitation directed towards this use of metadata packets to identify **separate** data packets that represent the current state of a dynamic data set, and the **separate** transmission or reception of the metadata packets and data packets. For example, claim 1 recites, in part:

“receiving, at a communications service from a source node, **a metadata packet identifying a plurality of data packets** that represent a state of at least a portion of a changing data set at a point in time [and]

receiving, at the communication service from the source node, **at least one of the identified data packets**” (emphasis added).

Applicants’ amended independent claim 14 recites, in part:

“a source node for transmitting **at least one metadata packet, each metadata packet identifying a plurality of data packets** that represent a current state of a changing data set, and for transmitting **at least one of the identified data packets**” (emphasis added).

Applicants’ amended independent claim 26 recites, in part:

“a receiving subsystem for receiving **i) at least one metadata packet identifying a plurality of data packets** representing a current state of a changing data set and **ii) at least one data packet** identified by the received at least one metadata packet” (emphasis added).

Applicants’ last independent claim, amended claim 29, recites, in part:

“generating a third metadata packet . . . **the third metadata packet identifying a third plurality of data packets** . . .

transmitting to a consumer node **the third metadata packet** [and]

transmitting to the consumer node **at least one of the identified third plurality of data packets**” (emphasis added).

The passages of Salesky cited by the Examiner relate to sending a block of an application screen image from a presenter client computer 12 to a conference server 14. In doing so, the presenter client computer 12 may first transform the block or stamp it with ID information such as location, time, or origin. See Salesky at para. [0056]–[0059]; and at FIG. 1. What Salesky describes, however, in these passages and elsewhere, is different from what is recited in Applicants’ amended independent claims 1, 14, 26, and 29.

In particular, Salesky does not describe transmitting (or receiving) metadata packets **separately** from data packets, as recited in Applicants' amended independent claims 1, 14, 26, and 29. Rather, Salesky describes transmitting only data blocks that may have been stamped with metadata. More specifically, Salesky describes generating metadata, such as the location, time, and origin of a data block, but then transmits only the data block itself after the block has been stamped with such metadata. Salesky does not describe the transmission of metadata in packets **separate from** the transmitted data blocks, as recited in Applicants' amended independent claims 1, 14, 26, and 29.

In addition, the metadata that Salesky stamps to each data block does not identify "a **plurality** of data packets," as recited in Applicants' amended independent claims 1, 14, 26, and 29. Rather, the metadata stamped to an individual data block in Salesky only describes that individual data block. For example, Salesky discloses that an individual data block may be stamped with metadata representing that individual block's location, time, or origin. But, that metadata stamp does not contain information about a plurality of blocks, as recited in Applicants' amended independent claims 1, 14, 26, and 29.

Accordingly, the Applicants respectfully submit that Salesky fails to teach or suggest all of the elements present in any one of the Applicants' amended independent claims 1, 14, 26, or 29 and is incapable of achieving the above-described advantages of the Applicants' invention – the separation of metadata and data packets, which allows for the election of different data packets, identified by the same metadata, for transmission to different nodes. Therefore, the Applicants respectfully submit that amended independent claims 1, 14, 26, and 29, and claims 2, 5–13, 15–25, 27, and 28, which depend therefrom, are patentable over Salesky. Accordingly, the Applicants respectfully request that this ground of rejection be reconsidered and withdrawn.

Claims 3 and 4 are Patentable over Salesky in view of Teplov

Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Salesky in view of Teplov. The Applicants respectfully traverse this rejection as applied to the claims, as amended.

To demonstrate a prima facie case of obviousness, all of the limitations of the claim at issue must be taught or suggested by the prior art reference(s) relied upon in support of the rejection. See MPEP § 706.02 (j) and § 2143. As previously explained, Salesky fails to teach or suggest transmitting (or receiving) metadata packets separately from data packets, and also fails to teach or suggest the use of metadata packets that identify “a plurality of data packets,” as recited in Applicants’ amended independent claim 1. Applicants respectfully submit that Teplov also fails to teach or suggests such claim limitations. Accordingly, the Applicants respectfully submit that Salesky and Teplov, even if combined, do not fulfill all of the requirements of Applicants’ amended independent claim 1, and, therefore, do not legally establish a prima facie case of obviousness of that claim or of claims 3 and 4, which depend therefrom. The Applicants, therefore, respectively submit that each of these claims is patentable over Salesky in view of Teplov. Accordingly, the Applicants respectfully request that this ground of rejection be reconsidered and withdrawn.

CONCLUSION

In light of the foregoing, the Applicants respectfully submit that all of the pending claims 1–29 are in condition for allowance. Accordingly, the Applicants respectfully request reconsideration, withdrawal of all grounds of objection and rejection, and allowance of all the pending claims 1–29 in due course.

If the Examiner believes that a further telephone conversation with the Applicants' attorney would be helpful in expediting the allowance of this application, the Examiner is invited to call the undersigned at the telephone number identified below.

Respectfully submitted,

Date: August 29, 2008
Reg. No. 60,571

Tel. No.: (617) 570-1973
Fax No.: (617) 523-1231
Customer No. 051414

/Kenneth E. Radcliffe/
Kenneth E. Radcliffe, Esq.
Attorney for the Applicants
Goodwin | Procter LLP
Exchange Place
53 State Street
Boston, Massachusetts 02109

LIBC/3348197.1